El Paso County - 327th District Court

BERTHA C. GRUENANGERL,	§	
	§	
Plaintiff	§	
	§	
v.	§	CAUSE NO.
	§	
McDONALDS CORPORATION,	§	
	§	
Defendant	§	

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES, Plaintiff, BERTHA C. GRUENANGERL (hereinafter referred to as Plaintiff or "Gruenangerl"), and files this Plaintiff's Original Petition complaining of Defendant, McDONALDS CORPORATION (hereinafter referred to as Defendant or "McDonalds") and for cause of action would show this Honorable Court as follows:

I.

PARTIES

1.1   Plaintiff Gruenangerl is a natural person who resides in El Paso County, Texas.

1.2   Defendant McDonalds is the world's largest hamburger chain with over 33,000 locations in 119 countries. McDonalds may be served by delivering a copy of Plaintiff's Original Petition to the Chief Executive Officer, Donald Thompson, through commercial courier service, at 1 McDonald, Oak Brook, IL.

1.3   This is a Level III case.

EXHIBIT

_A_
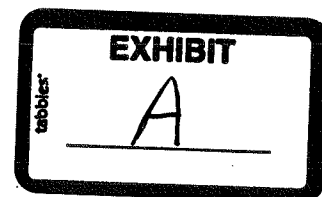
II.

JURISDICTION AND VENUE

2.1   This Court has jurisdiction over the subject matter and the parties to this case and all conditions precedent to the filing of this suit have been met and venue properly lies in El Paso County, Texas. The conduct Plaintiff complains of occurred in El Paso. Plaintiff has dually filed her charge of discrimination with both the Texas Workforce Commission-Human Rights Division and the Equal Employment Opportunity Commission. All required administrative remedies have been exhausted and all conditions precedent have been satisfied. Plaintiff states that all claims are made pursuant and solely to Texas state law and to the specific exclusion of any federal law. Plaintiff further avers that this case and this charge of discrimination have been brought in a timely manner. This Court has jurisdiction pursuant to Section 21.054 of the Texas Labor Code.

III.

JURY DEMAND

3.1   Plaintiff is requesting trial by jury and will tender the statutory jury fee.

IV.

AGENCY

4.1   Whenever in this petition it is alleged that the Defendant did any act or thing, it is meant that Defendant's officers, agents, servants, employees or representatives did such act or thing and that at the time such act or thing was done, it was done with the full

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PLAINTIFF'S ORIGINAL PETITION

authorization or ratification of or by Defendant and was done in the normal and routine course and scope of employment of Defendant's officers, agents, servants, employees or representatives.

V.

FACTS

5.1   This case is founded upon Defendant's violations of Section 21.001 *et seq.* of the Texas Labor Code (age discrimination and retaliation). Specifically, McDonalds violated Section 21.051 and Section 21.055 by discriminating against Gruenangerl because of her age and retaliating against Gruenangerl because she opposed discrimination.

5.2   Gruenangerl was employed at a McDonald's located at 2811 N. Piedras Street, El Paso, Texas, working the grill and the counter for 26 years.

5.3   On or about January 9, 2014, Gruenangerl was suspended without pay by Larissa Valdez, Human Resources Director. This occurred after a co-worker, Adelaya Coronado, reported that Gruenangerl was sexually harassing her and other employees. Since the date of the suspension, Gruenangerl had attempted to follow-up on her employment status; however, calls were never answered or returned by Larissa Valdez.

5.4   Gruenangerl filed a charge of discrimination in April 2013 against McDonalds because she was being subjected to harassment from the Floor Manager, Reyna Cardenas. Plaintiff was being told that she should retire because she was too old to work there and she was always being harassed for speaking English because Reyna Cardenas does not

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5.5   Plaintiff is being retaliated against for having filed this previous charge against

Defendant with the Equal Employment Opportunity Commission for age discrimination.

5.6   Gruenangerl is being discriminated against for her age and is being retaliated

against for having participated in protected activity and has been retaliated against for

opposing discrimination based upon age in violation of the Texas Labor Code.

5.7   Accordingly, Plaintiff hereby seeks damages against the Defendant in a sum

within the jurisdictional limits of this Court.

VI.

DAMAGES
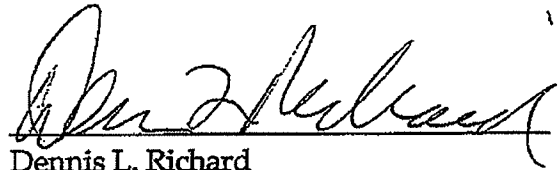
6.1   By reason of Defendant's acts and conduct, as herein alleged, Plaintiff has been

damaged as follows:

1.   Compensatory damages (including emotional pain and suffering, inconvenience, mental anguish, loss of enjoyment of life, and other non-economic damages) allowed under the Texas Labor Code, in the past and the future, pursuant to the Texas Labor Code.

2.   Economic damages in the form of lost back pay, lost future wages and lost fringe benefits.

3.   Attorney's fees pursuant to the Texas Labor Code.

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PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that upon final trial of this cause, Plaintiff has and recovers of and from the Defendant actual damages in a sum within the jurisdictional limits of this Court, pre-and post-judgment interest as allowed by law, attorney's fees, costs of Court, and for such other and further relief, both general and special, at law or in equity, to which Plaintiff may show herself justly entitled.

Respectfully submitted,

Dennis L. Richard
SBN: 16842600
LAW OFFICE OF DENNIS L. RICHARD
4171 North Mesa, Suite B-201
El Paso, TX 79902
Telephone: (915) 533-2211
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	§	
Defendant	§	

PLAINTIFF'S DEMAND FOR JURY TRIAL

Plaintiff, Bertha C. Gruenangerl, asserts her right to a trial by jury under Texas Constitution article 1, section 15, and makes this demand for a jury trial.

Because Plaintiff is making this demand thirty days prior to a trial setting, it is presumed to have been made a reasonable time before trial under Texas Rule of Civil Procedure 216. *Halsell v. Dehoyos*, 810 W.W.2d 371, 371 (Tex. 1991).

Plaintiff tenders the jury fee of $30.00 for district court, as required by Texas Government Code section 51.604(a).

Respectfully submitted,

Dennis L. Richard /s/

DENNIS L. RICHARD
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El Paso County - 327th District Court   CIVIL CASE INFORMATION SHEET   Filed 4/11/2014 3:27:59 PM
                                                                                     Norma L. Favela
                                                                                     District Clerk
CAUSE NUMBER *(FOR CLERK USE ONLY):* _____   COURT *(FOR CLERK USE ONLY):* _____   El Paso County
                                                                                                 2014DCV1155
STYLED Bertha C. Gruenangerl v. McDonalds Corporation
       (e.g., John Smith v. All American Insurance Co; In re Mary Ann Jones; In the Matter of the Estate of George Jackson)

A civil case information sheet must be completed and submitted when an original petition or application is filed to initiate a new civil, family law, probate, or mental health case or when a post-judgment petition for modification or motion for enforcement is filed in a family law case. The information should be the best available at the time of filing.

1. Contact information for person completing case information sheet:	Names of parties in case:	Person or entity completing sheet is:
Name: Dennis L. Richard **Email:** dennis@dlrep.com	**Plaintiff(s)/Petitioner(s):** Bertha C. Gruenangerl	☒ Attorney for Plaintiff/Petitioner ☐ *Pro Se* Plaintiff/Petitioner ☐ Title IV-D Agency ☐ Other: _____
Address: 4171 N. Mesa **Telephone:** 915-533-2211		**Additional Parties in Child Support Case:**
City/State/Zip: El Paso, TX 79902 **Fax:** 915-533-2244	**Defendant(s)/Respondent(s):** McDonalds Corporation	**Custodial Parent:** **Non-Custodial Parent:**
Signature: /s/ Dennis L. Richard **State Bar No:** 16842600	[Attach additional page as necessary to list all parties]	**Presumed Father:**

2. Indicate case type, or identify the most important issue in the case (select only 1):

Civil			Family Law	
Contract	**Injury or Damage**	**Real Property**	**Marriage Relationship**	**Post-judgment Actions (non-Title IV-D)**
Debt/Contract ☐ Consumer/DTPA ☐ Debt/Contract ☐ Fraud/Misrepresentation ☐ Other Debt/Contract: *Foreclosure* ☐ Home Equity—Expedited ☐ Other Foreclosure ☐ Franchise ☐ Insurance ☐ Landlord/Tenant ☐ Non-Competition ☐ Partnership ☐ Other Contract:	☐ Assault/Battery ☐ Construction ☐ Defamation *Malpractice* 　☐ Accounting 　☐ Legal 　☐ Medical 　☐ Other Professional 　　Liability: ☐ Motor Vehicle Accident ☐ Premises *Product Liability* 　☐ Asbestos/Silica 　☐ Other Product Liability 　　List Product: ☐ Other Injury or Damage:	☐ Eminent Domain/ 　Condemnation ☐ Partition ☐ Quiet Title ☐ Trespass to Try Title ☐ Other Property: **Related to Criminal Matters** ☐ Expunction ☐ Judgment Nisi ☐ Non-Disclosure ☐ Seizure/Forfeiture ☐ Writ of Habeas Corpus— 　Pre-indictment ☐ Other: _____	☐ Annulment ☐ Declare Marriage Void *Divorce* 　☐ With Children 　☐ No Children **Other Family Law** ☐ Enforce Foreign 　Judgment ☐ Habeas Corpus ☐ Name Change ☐ Protective Order ☐ Removal of Disabilities 　of Minority ☐ Other:	☐ Enforcement ☐ Modification—Custody ☐ Modification—Other **Title IV-D** ☐ Enforcement/Modification ☐ Paternity ☐ Reciprocals (UIFSA) ☐ Support Order **Parent-Child Relationship** ☐ Adoption/Adoption with 　Termination ☐ Child Protection ☐ Child Support ☐ Custody or Visitation ☐ Gestational Parenting ☐ Grandparent Access ☐ Parentage/Paternity ☐ Termination of Parental 　Rights ☐ Other Parent-Child:
Employment	**Other Civil**			
☒ Discrimination ☒ Retaliation ☐ Termination ☐ Workers' Compensation ☐ Other Employment:	☐ Administrative Appeal ☐ Antitrust/Unfair 　Competition ☐ Code Violations ☐ Foreign Judgment ☐ Intellectual Property	☐ Lawyer Discipline ☐ Perpetuate Testimony ☐ Securities/Stock ☐ Tortious Interference ☐ Other: _____		

Tax	**Probate & Mental Health**	
☐ Tax Appraisal ☐ Tax Delinquency ☐ Other Tax	*Probate/Wills/Intestate Administration* ☐ Dependent Administration ☐ Independent Administration ☐ Other Estate Proceedings	☐ Guardianship—Adult ☐ Guardianship—Minor ☐ Mental Health ☐ Other: _____

3. Indicate procedure or remedy, if applicable (may select more than 1):

☐ Appeal from Municipal or Justice Court ☐ Arbitration-related ☐ Attachment ☐ Bill of Review ☐ Certiorari ☐ Class Action	☐ Declaratory Judgment ☐ Garnishment ☐ Interpleader ☐ License ☐ Mandamus ☐ Post-judgment	☐ Prejudgment Remedy ☐ Protective Order ☐ Receiver ☐ Sequestration ☐ Temporary Restraining Order/Injunction ☐ Turnover

4. Indicate damages sought (do not select if it is a family law case):
☐ Less than $100,000, including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorney fees
☐ Less than $100,000 and non-monetary relief
☐ Over $100,000 but not more than $200,000
☒ Over $200,000 but not more than $1,000,000
☐ Over $1,000,000

Rev 2/13